

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MONICA NICULCEA,	:	CIVIL ACTION NO. 1:17-CV-2096
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
STONE RIDGE TOWNE CENTER,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 25th day of March, 2019, upon consideration of the report (Doc. 26) of Magistrate Judge Karoline Mehalchick, recommending that the court grant in part and deny in part the motion (Doc. 12) of defendant Stone Ridge Towne Center (“Stone Ridge”) seeking to dismiss the complaint (Doc. 1) of plaintiff Monica Niculcea (“Niculcea”), wherein Judge Mehalchick recommends that the court deny Stone Ridge’s motion to the extent Stone Ridge posits that Niculcea’s civil rights claims are untimely and unexhausted, but grant the motion to the extent Stone Ridge contends that Niculcea fails to state a claim for which relief may be granted and fails to explain the request for a class action indicated on her civil cover sheet, and wherein Judge Mehalchick further recommends that the court grant Niculcea an opportunity to amend her complaint, (see Doc. 26 at 4-11), and it appearing that Niculcea has not objected to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir.

1987)), but that, as a matter of good practice, a district court should afford “reasoned consideration” to the uncontested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following independent review of the record, the court being in agreement with Judge Mehalchick’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 26) of Magistrate Judge Mehalchick is ADOPTED.
2. Stone Ridge’s motion (Doc. 12) is DENIED to the extent it seeks dismissal on timeliness or administrative exhaustion grounds but GRANTED to the extent it seeks dismissal for failure to state a claim for which relief may be granted and to the extent it requests a class action without explanation.
3. Niculcea’s complaint (Doc. 1) is DISMISSED without prejudice.
4. Niculcea is granted leave to amend her pleading within 30 days of the date of this order.
5. Any amended pleading filed pursuant to paragraph 4 shall be filed to the same docket number as the instant action, shall be entitled “First Amended Complaint,” and shall be complete in all respects. It shall be a new pleading which stands by itself as an adequate complaint under the Federal Rules of Civil Procedure, without reference to the complaint (Doc. 1) hereinabove dismissed.
6. This matter is REMANDED to Magistrate Judge Mehalchick for further proceedings.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania